

APPENDIX H
RECIPROCAL COMPENSATION FOR CALL TERMINATION

This document describes the reciprocal compensation arrangements between USX and GTE with respect to use of unbundled network elements for Local Traffic, Toll and Switched Access Services. The Parties shall compensate each other for transport and termination of such traffic at the rates provided in Appendix C and/or the appropriate Parties' Switched Access Tariff

Compensation for Call Termination

Reciprocal compensation does not apply in a resale environment.

The following compensation terms shall apply in all cases where USX purchases GTE's unbundled Local Switching:

1. For local intra-switch calls between lines connected to GTE's switch where USX has purchased GTE's unbundled Local Switching, the Parties agree to impose no call termination charges on each other. GTE's Local Switching charge will apply as described below where the call is:
 - (a) Originated by USX's customer and completed to a GTE customer:
 - (1) (For use of the local switch): Local Switching charge at the originating office will apply to USX.
 - (b) Originated by USX's customer and completed to the customer of a third party LEC (not affiliated with USX) using GTE's unbundled Local Switching:
 - (1) (For use of the local switch): Local Switching charge at the originating office will apply to USX.
 - (c) Originated by USX's customer and completed to another USX's customer using GTE's unbundled Local Switching.
 - (1) (For use of the local switch): Local Switching charge at the originating office will apply to USX.
 - (d) Originated by a GTE customer and terminated to USX's customer using GTE's unbundled Local Switching.
 - (1) No Local Switching charge will apply.
 - (e) Originated by the customer of a third party LEC (not affiliated with USX) using GTE's unbundled Local Switching and terminated to USX's customers using GTE's unbundled Local Switching.
 - (1) No Local Switching charge will apply to USX.
2. For Local inner-switch calls where USX has purchased GTE's unbundled Local Switching.

GTE's charges will apply to USX described below where the call is:

 - (a) Originated from USX's end-user customer using GTE's unbundled Local Switching and completed to a GTE customer.

- (1) (For use of the local switch): Local Switching charge at the originating office.
 - (2) A mileage-based transport charge will apply when USX uses GTE's transport.
 - (3) (For call termination): Charges for local interconnection/call termination, when applicable.
- (b) Originated from USX's customer using GTE's unbundled Local Switching and completed to a third party LEC (not affiliated with USX) customer using GTE's unbundled Local Switching.
- (1) (For use of the local switch): Local Switching charge at the originating office.
 - (2) A mileage-based transport charge will apply when USX uses GTE's transport.
- (c) Originated from USX's customer using GTE's unbundled Local Switching and completed to the interconnected network of a third party LEC (not affiliated with USX).
- (1) (For use of the local switch): Local Switching charge at the originating office.
 - (2) A mileage-based transport charge will apply when USX uses GTE's transport, and mileage shall be measured between the originating office and the POI of the third party's network.
- (d) Originated from USX's customer using GTE's unbundled Local Switching and completed to USX's customer using GTE's unbundled Local Switching.
- (1) (For use of the local switch): Local Switching charge at the originating office.
 - (2) A mileage-based transport charge will apply when USX uses GTE's transport.
 - (3) (For use of the local switch): Local Switching charge at the terminating office.
- (e) Originated by a GTE customer and terminated to USX's customer using GTE's unbundled Local Switching.
- (1) (For use at local switch): Local Switching Charge at the terminating office.
 - (2) (For call termination): USX shall charge GTE for local interconnection/call termination, when applicable.
- (f) Originated by a customer of a third-party LEC (not affiliated with USX) using GTE's unbundled Local Switching and terminated to USX's customer using GTE's unbundled Local Switching.
- (1) (For use of the local switch): Local Switching charge at the terminating office.

- (g) Originated by a customer of the interconnected network of a third-party LEC (not affiliated with USX) and terminated to USX's customer using GTE's unbundled Local Switching.

- (1) (For use of the local switch): Local Switching charge at the terminating office.

For intraLATA toll calls where USX has purchased GTE's unbundled Local Switching, charges per Unbundled Network Element pricing shall apply as follows:

- (a) Originated by USX's customer and completed to a GTE customer.

- (1) (For use of the local switch): Local Switching charge plus RIC and CCLC (Residual Interconnection Charge) at the originating office.

- (2) Shared transport charge between the two offices will apply when USX uses GTE's transport.

- (3) (For call termination): End Office Switching charge at the terminating office (Switched Access Rate).

- (4) RIC and CCLC at the terminating office.

- (b) Originated by USX's customer and completed to the customer of a third-party LEC (not affiliated with USX) using GTE's unbundled Local Switching in a distant end office.

- (1) (For use of the local switch): Local Switching charge plus RIC and CCLC at the originating office.

- (2) Shared transport charge between the two offices will apply when USX uses GTE's transport.

- (c) Originated by USX customer and completed to the network of a third-party LEC (not affiliated with USX) interconnected with GTE's network.

- (1) (For use of the local switch): Local Switching charge, plus RIC and CCLC, at the originating office.

- (2) Common transport charge will apply when USX uses GTE's transport, and mileage shall be measured between the originating office and the POI of the third party's network.

- (3) Tandem Switching, where applicable.

- (d) Originated by USX's customer and completed by another of USX's customers being served through GTE's unbundled Local Switching in a distant office.

- (1) (For use of the local switch): Local Switching charge plus RIC and CCLC at the originating office.

- (2) Shared transport charge between the two offices will apply when USX uses GTE's transport.

- (3) (For use of the local switch): Local Switching charge plus RIC and CCLC at the terminating office.

- (e) Originated by a GTE customer and terminated to USX's customer using GTE's unbundled Local Switching.

- (1) (For use of the local switch): Local Switching charge plus RIC and CCLC at the terminating office.
- (2) (For call termination): USX will charge GTE Local Switching at the terminating office (Switched Access Rate).
- (3) (For call termination): USX will charge GTE NIC and CCLC at the terminating office.
- (f) Originated by the customer of a third-party LEC (not affiliated with USX) using GTE's unbundled Local Switching in a distant end office and terminated to USX's customer using GTE's unbundled Local Switching.
 - (1) (For use of the local switch): Local Switching charge plus RIC and CCLC at the terminating office.
- (g) Originated by a customer of the network of a third-party LEC (not affiliated with USX) interconnected with GTE's network and terminated to USX's customer using GTE's unbundled Local Switching.
 - (1) (For use of the local switch): Local Switching charge plus RIC and CCLC at the terminating office.

For intrastate Switched Access calls where USX's is using GTE's unbundled Local Switching for calls originated from or terminated to an IXC for completion:

- (a) For calls originated from USX's customer to USX's own IXC switch (or that of an affiliate) for completion.
 - (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Originating RIC and CCLC.
 - (3) GTE will charge USX's IXC affiliate the following Switched Access elements on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge USX's IXC affiliate the following Switched Access elements on a meet-point basis:
 - a. Originating RIC and CCLC;
 - b. Local Switching.
- (b) For calls originating from USX's customer to an IXC's switch not affiliated with USX.
 - (1) (For use of the local switch): USX's customer to an IXC's switch not affiliated with USX.
 - (2) Originating RIC and CCLC.
 - (3) GTE shall charge the non-affiliated IXC for the following originating Switched Access on a meet-point basis:
 - a. Local Transport;

- b. Tandem Switching.
- (4) USX will charge the non-affiliated IXC for the following Switched Access elements on a meet-point basis:
 - a. Originating RIC and CCLC;
 - b. Local Switching.
- (c) For calls terminating to USX's end-user customer from USX's own IXC switch (or that of an affiliate) for completion.
 - (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Terminating RIC and CCLC.
 - (3) GTE will charge USX's IXC (affiliate) the following Switched Access elements on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge USX's IXC (affiliate) for the following Switched Access elements on a meet-point basis:
 - a. Terminating RIC and CCLC.
 - b. Local Switching.
- (d) For calls terminating to USX's customer from an IXC switch not affiliated with USX.
 - (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Terminating RIC and CCLC.
 - (3) GTE shall charge the IXC for the following terminating Switched Access on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge IXC for the following Switched Access elements on a meet-point basis:
 - a. Terminating RIC and CCLC;
 - b. Local Switching.

For interstate Switched Access calls where USX is using GTE's unbundled Local Switching for calls originated from or terminated to an IXC for completion:

- (a) For calls originated from USX's customer to USX's own IXC switch (or that of an affiliate) for completion.
 - (1) (For use of the local switch): Local Switching charge at the originating office.

- (2) Originating Residual Interconnection Charge (RIC) and CCL.
 - (3) GTE shall charge USX's IXC affiliate for the following originating Switched Access on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge USX's IXC affiliate the following Switched Access elements on a meet-point basis:
 - a. Originating RIC;
 - b. Originating CCLC;
 - c. Local Switching.
- (b) For calls originated from USX's customer to an IXC's switch not affiliated to USX.
- (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Originating RIC and CCLC.
 - (3) GTE shall charge the IXC for the following originating Switched Access on a meet-point basis:
 - a. Local Transport;]
 - b. Tandem Switching.
 - (4) USX will charge IXC the following Switched Access elements on a meet-point basis:
 - a. Originating RIC;
 - b. Originating CCLC;
 - c. Local Switching.
- (c) For calls terminating to USX's customer for USX's own IXC switch (or that of an affiliate) for completion.
- (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Terminating RIC and CCL.
 - (3) GTE will charge USX's IXC (affiliate) the following Switched Access elements on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge USX's IXC affiliate the following Switched Access elements on a meet-point basis:
 - a. Terminating RIC;

- b. Terminating CCLC;
 - c. Local Switching.
- (d) For calls terminating to USX's customer from an IXC switch not affiliated with USX.
 - (1) (For use of the local switch): Local Switching charge at the terminating office.
 - (2) Terminating RIC and CCL.
 - (3) GTE will charge the non-affiliated IXC for the following terminating Switched Access on a meet-point basis:
 - a. Local Transport;
 - b. Tandem Switching.
 - (4) USX will charge IXC the following Switched Access elements on a meet-point basis:
 - a. Terminating RIC;
 - b. Terminating CCLC;
 - c. Local Switching.

APPENDIX I PERFORMANCE MEASURES

Pursuant to Article III of this Agreement, the following terms and conditions shall apply regarding the performance measures set forth in this Appendix I. The Parties recognize that these performance measures are new and evolving, and as further evolution is made by GTE, the parties will discuss the changed procedures, including new standard processes and procedures, if any, for the purpose of applying them to and incorporating them in this Agreement.

GTE's Performance Measures (PMs) as set forth in this Appendix implement standards to measure the quality of services supplied by GTE with respect to pre-ordering, order/provisioning, maintenance and billing that is equivalent in equality to what GTE provides to itself. GTE's PMs contain measures for both GTE and USX with the measures for USX being considered an essential element for GTE meeting customer expectations.

GTE's PMs are conditioned upon a 150 order per month minimum requirement as described below for Service Units, as a threshold for providing Financial Incentives for certain PMs. The 150 order per month requirement for Service Units was developed to provide a statistically valid sample size to measure GTE's performance for USX in relationship to the level of performance GTE provides to its own customers. Service Units are defined to include unbundled loops, unbundled ports, resold local service lines, INP ported numbers, and interconnection trunks.

The Parties recognize that the 150 order threshold may not be reasonably attainable for small sized telecommunications carriers. Therefore, the Parties agree to work cooperatively to develop alternative methods of measuring performance for pre-ordering, ordering, and provisioning that will allow small sized telecommunications carriers to be eligible for Financial Incentives while continuing to insure the measurement process accurately represents GTE's performance.

GTE will begin recording of performance data in the first full month in which it receives the first official order from USX. GTE's report of performance measures to USX, however, will begin after 6 months of data recording; i.e., for data recorded in the seventh full month. Each month's report will then be reported as a rolling 3-month result (i.e., July's report will actually include May, June, July data). The calculation of USX performance will be based on this 3 month rolling average of actual performance unless otherwise specified.

Reporting will be available monthly, or at a longer interval, as requested by USX. The details of report delivery shall be agreed upon between USX and the appropriate GTE Account Management group.

Forecasting Performance Measurement - GTE's PMs are conditioned upon the requirement, as described more fully below, that USX submit timely and accurate forecasts. The Forecasting PM includes provisions that measure the accuracy of USX's forecast by comparing forecasted Service Units to ordered Service Units for the same period.

USX shall furnish a quarterly forecast of service order volumes and quantities of resold local services, unbundled network elements, and interconnection trunks on a State-wide basis, identifying these volumes/quantities by month, for each month included in the quarter. These forecasts shall be received by GTE at least one month before the beginning of the quarter covered by the forecast. Should the first month of the next quarterly forecast be greater than ten (10%) percent of the last month of the current quarterly forecast, USX shall notify GTE promptly of the increased order volume. Notification shall be made to the appropriate GTE Account Management group in order to allow sufficient "lead time" to ensure staffing levels are available to support the increased order volumes.

USX must agree to comply with the requirements of the Forecasting PM as the basis for the application of Financial Incentives described below. If USX chooses not to comply with the Forecasting PM, Financial Incentives will not apply. For purposes of applying Financial Incentives the accuracy of forecasts will be determined at the state level.

The measurement and reporting of GTE's PMs will still be made available as stated above regardless of USX's election for the Forecasting PM.

Financial Incentives - When USX agrees to the Forecasting PM described above, Financial Incentives will begin concurrently with reporting of individual USX performance data except as specified below for the Pre-Ordering/Ordering/Provisioning and Interconnection PMs.

Financial Incentives will apply to Maintenance/Repair PMs without restriction other than USX's participation in the Forecasting PM.

Financial Incentives will apply to Pre-Ordering/Ordering/Provisioning and Interconnection PMs subject to USX's participation in the Forecasting PM and the required per month ordering threshold. USX must place a 150 orders per month minimum for Service Units, by state, for three (3) consecutive months (hereafter the "150-order requirement"). Once USX's order volume reaches the "150-order requirement", a ninety (90) day grace period will begin wherein data will be accumulated and reviewed. At the end of that ninety (90) day grace period, applicable Financial Incentives shall apply. The three (3) consecutive months and the subsequent ninety (90) day grace period may be concurrent with all or part of the beginning six (6) month period after recording of official data begins, between initial order activity and the implementation of performance reporting (i.e., month 7 data).

For purposes of applying Financial Incentives to the Forecasting PM, if USX's actual order activity for Service Units in a given month is below the forecast for that month by more than 10%, Financial Incentives will apply only to the incremental Service Units that were forecasted but not ordered; i.e., the difference between the actual quantity ordered and the quantity which reflects the forecast less 10%.

For purposes of applying Financial Incentives to the Pre-ordering/Ordering/Provisioning and Interconnection PM, if USX's actual order activity for Service Units in a given month exceeds the forecast for that month by more than 10%, financial incentives If USX's actual order activity for Service Units in a given month exceeds the forecast for that month by more than 10%, Financial Incentives will not apply to the incremental Service Units above the 10% threshold.

Average Non-Recurring Charges - The averages are calculated by dividing the sum of all non-recurring charges applied to service orders issued by USX to GTE by the total number of orders or the total number of Service Units ordered. These calculations will be made by service activity and service category: Business (Single/Multi-line, Centranet, PBX, Trunks), Residence, etc.. The average Non-Recurring Charges will be separately calculated for field work and non-field work orders. These averages and a weighting factor for field and non-field work will be calculated during a study period to be mutually agreed between the Parties. The initial average Non-Recurring Charge calculation will occur within three (3) months of USX's initial issuance of official orders. The average Non-Recurring Charge shall be recalculated annually as mutually agreed between the Parties.

Average Recurring Charges - The averages are calculated by dividing the sum of all recurring charges applied to service orders issued by USX to GTE by the total number of orders or Service Units ordered. These averages will be calculated during a study period to be mutually agreed between the Parties. These calculations will be made by service activity and service category, Business, Residence, etc. The initial average Recurring Charge calculation will occur within three (3) months of USX's initial issuance of official orders. The average Recurring Charges shall be recalculated annually as mutually agreed between the Parties.

GTE Performance Measures with Financial Incentives

PRE-ORDERING/ORDERING/PROVISIONING

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
1	GTE	National	Prompt transmission of Customer Service Record (CSR) Information	85% of CSR's sent to USX by the close of business on business day following receipt of request	5% of average NRC incurred by USX for the number of CSR's for which the Quality Standard is not met in the reported month
2	GTE	National	Prompt transmission of Local Service Confirmation (LSC)	85% of LSC's sent to USX by the close of business on business day following receipt of request	20% of average NRC incurred by USX for the lines ordered for which GTE failed to meet the Quality Standard in the reported month
3	GTE	State	Due Date commitments met	Percent of USX customer install, transfer, and change service orders for which service is installed by close of business on the committed due date is not more than 2.5% below the percent of GTE customer install, transfer, and change service orders	Waiver of the average NRC installation charges for the number of lines by which GTE fails to meet the Quality Standard in the reported month

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
4	GTE	State	% reporting trouble within 30 days of the date installed	Percent of USX customer install, transfer, and change service orders which are followed by a customer trouble report within 30 days of service order completion date is not more than 2.5% worse than the percent GTE customer install, transfer, and change service orders which are followed by a customer trouble report within 30 days of service order completion	One month's average MRC per trouble report exceeding the Quality Standard in the reported month (not to exceed one month's credit per customer line month)
5	GTE	State	Service Order discrepancy: LSR's issued without material errors	80% of LSR's initiated by USX's do not contain an order discrepancy or error: 90% in 12 months. Final target - 95%	Payment by USX to GTE equal to 20% of the average NRC installation charges for the number of lines which USX fails to meet the Quality Standard in the reported month

INTERCONNECTION

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
1	GTE	State	Trunk orders completed on or before the Committed Due Date	Percent of trunk orders by USX completed by GTE on or before the commitment date is not more than 10% below the percent of FG B/D Switched access orders by all ordering companies completed by GTE on or before the commitment date	Waiver of 100% of average NRC for trunks ordered from which GTE failed to meet the Quality Standard in the reported month
2	GTE	National	Firm Order Confirmation (FOC) on time delivery	Percent of trunk orders by USX completed by GTE on or before the commitment date is not more than 5% below the percent of FG B/D Switched access by all ordering companies for which GTE sends FOC (within 5 days, or longer, as requested by USX)	Waiver of 20% average of average NRC installation for trunks for which GTE failed to meet the Quality Standard in the reported month

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
3	USX	National	Service Order discrepancy: ASR's issued without material errors	80% of ASR's initiated by USX do not contain material error or result in discrepancy; 90% in 12 months. Final target 95%	Charge equal to 20% of average NRC installation of trunks ordered for which USX failed to meet the Quality Standard in the reported month

MAINTENANCE/REPAIR

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
1	GTE	State	Percent Commitments Met	Percent of USX customer Network trouble reports where commitment was met more than 2.5% worse than the percent of GTE's customer Network trouble reports where commitment was met (excluding reports which are cleared CPE, USX customer error)	One month's flat rate average MRC per line out of service for which Quality Standard is not met in the reported month
2	GTE	State	Average clearing time - Out of Service (OOS) - Designed	Average repair time (total number of elapsed hours/ minutes for OOS USX customer Network trouble reports divided by total number OOS customer Network trouble reports) for USX customers is more than 10% of the average repair time for GTE customers (includes only "Designed" services)	One month's flat rate average MRC per line OOS for which Quality Standard is not met in the reported month

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
3	GTE	State	Average clearing time - Out Of Service (OOS) - Non-Designed	Average repair time (total number of elapsed hours/minutes for OOS USX customer Network trouble reports divided by total number OOS customer Network trouble reports) for USX customers is more than 10% of the average repair time for GTE customers (includes only POTS and circuits which do not require a design)	One month's flat rate average MRC per line OOS for which Quality Standard is not met in the reported month
4	GTE	State	Percent reports per 100 (Failure Frequency)	Percent of USX customers making trouble reports (total number of USX customer Network trouble reports divided by the total access lines multiplied by 100) is not worse than .5 percent points of the percentage of GTE customers making trouble reports	<p>Within six (6) months of effective date, GTE will have established a minimum access line threshold.</p> <p>One month's flat rate average MRC per line OOS for which Quality Standard is not met in the reported month.</p>

Issue No.	Obligation	Data Level	Performance Measure(PM)	Quality Standard	Financial Incentive
5	GTE	State	Percent repeat reports in 30 days	Percent of USX customer repeat trouble reports (total number of USX customer Network trouble reports which had a previous Network trouble report within the last 30 days divided by the total of customer Network trouble reports multiplied by 100) is not more than 2.5% worse than the percent of GTE customer repeat trouble reports	One month's flat rate average MRC per line OOS for which Quality Standard is not met in the reported month

****Note: Outage Credits: Local Service and Unbundled Network Elements:** Outage Credits apply to interruptions of Local Services and Unbundled Network Elements in accordance with applicable state Public Service Commission requirements. If a Local Service or Unbundled Network Element is interrupted, USX will be entitled to outage credits. An interruption period begins when USX reports to GTE that a Local Service or Unbundled Network Element is interrupted (or GTE has knowledge that an interruption has occurred through service monitoring or other means). An interruption period ends when the Local Service is repaired and returned to USX. A Local Service or Unbundled Network Element is considered to be interrupted when there has been a loss of continuity, the Local Service or Unbundled Network Element does not operate in accordance with the applicable service standards, or it is otherwise unavailable for use by USX. This definition is not intended to conflict with State Public Utility Commission requirements.

FORECASTING

Issue No.	Obligation	DataLevel	Performance Measurement(PM)	Quality Standard	Financial Incentive
1	USX	State	Service Units requirements accurately forecast all volumes for each month contained in the quarterly report.	Volume of USX's Service Units requirements in a month is not greater than 10% below the amount forecast by USX in it's most recent quarterly forecast (which shall have been made not later than 30 days prior to the quarter in question)	20% of the average NRC for the number of service units below the forecast when the actual volumes are greater than 10% and less than or equal to 30% under forecast. 40% of the average NRC for the number of service units below the forecast when the actual volumes are greater than 30% and less than or equal to 40% under the forecast. 50% of the average NRC for the number of service units below the forecast when the actual volumes are over 40% under the forecast

FORECASTING

Issue No.	Obligation	DataLevel	Performance Measurement(PM)	Quality Standard	Financial Incentive
1	USX	State	Service Units requirements accurately forecast all volumes for each month contained in the quarterly report.	Volume of USX's Service Units requirements in a month is not greater than 10% below the amount forecast by USX in it's most recent quarterly forecast (which shall have been made not later than 30 days prior to the quarter in question)	20% of the average NRC for the number of service units below the forecast when the actual volumes are greater than 10% and less than or equal to 30% under forecast. 40% of the average NRC for the number of service units below the forecast when the actual volumes are greater than 30% and less than or equal to 40% under the forecast. 50% of the average NRC for the number of service units below the forecast when the actual volumes are over 40% under the forecast

APPENDIX J
POLE ATTACHMENT AGREEMENT

1. Parties.

This agreement (Agreement) is made by and between GTE South Incorporated, GTE North Incorporated with its address for purposes of this Agreement at 600 Hidden Ridge Drive, Irving, Texas 75038 ("GTE"), and US Xchange of Illinois, L.L.C.(Licensee), in its capacity as a certified provider of local dial-tone service, with its principal place of business at 20 Monroe N.W., Suite 450, Grand Rapids, Michigan 49503 (GTE and USX being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Illinois (the "State").

2. Definitions.

- 2.1 Attachment Fee - the fee assessed per pole and paid by Licensee to place Attachments on GTE's poles. Attachment fees are specified in Section 11 of this Agreement.
- 2.2 Attachments - the equipment reasonably required by Licensee to provide its Telecommunications Services that is placed on GTE's poles.
- 2.3 Business Day - Monday through Friday, except for holidays on which the U. S. Mail is not delivered.
- 2.4 GTE's Poles or GTE Pole(s) - any pole or poles solely owned by GTE, jointly owned by GTE and another entity, and space on poles obtained by GTE through arrangements with the owner(s) thereof.
- 2.5 Hazardous Materials - (i) any substance, material or waste now or hereafter defined or characterized as hazardous, extremely hazardous, toxic or dangerous within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or any similar law, ordinance, statute, rule or regulation of any governmental body or authority; (ii) any substance, material or waste now or hereafter classified as a contaminant or pollutant under any law, ordinance, statute, rule or regulation of any governmental body or authority; or (iii) any other substance, material or waste, the manufacture, processing, distribution, use, treatment, storage, placement, disposal, removal or transportation of which is now or hereafter subject to regulation under any law, ordinance, statute, rule or regulation of any governmental body or authority.
- 2.6 Make-Ready Work - all work, including, but not limited to, rearrangement, removal, or transfer of existing attachments, placement, repair, or replacement of poles, or any other changes required to accommodate the Licensee's Attachments on a pole.
- 2.7 Pole Attachment Request (PAR) - a written request from Licensee to place its Attachments on GTE's Poles, submitted in accordance with Section 6 of this Agreement. For Agreements in effect prior to (date agreement is executed by the parties), the term PAR shall be deemed to include Pole Attachment requests made by letter or similar document.
- 2.8 Telecommunications Services - the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

3. Purpose.

- 3.1 Licensee represents to GTE that Licensee has a need to occupy, place and maintain Attachments on GTE's poles for the purpose of providing Telecommunications Services.
- 3.2 GTE agrees to permit Licensee to occupy, place and maintain its Attachments on such GTE poles as GTE may allow pursuant to the terms of this Agreement.

4. Grant of License.

GTE grants to Licensee and Licensee accepts from GTE a non-exclusive revocable license to occupy, place and maintain in a designated space on specified GTE poles Licensee's attachments on the terms and conditions set forth herein. Licensee shall have no further right, title, or other interest in connection with GTE's poles. GTE shall have the right to grant, renew or extend privileges to others not parties to this Agreement to occupy, place or maintain Attachments on or otherwise use any or all GTE poles. Nothing herein is intended to, nor should it be construed to require GTE to construct or modify any facilities not needed for its own service requirements. GTE grants this license in reliance on the representation of Licensee that Licensee intends to provide Telecommunications Services with the Attachments covered by this Agreement.

5. Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be two (2) years from the effective date referenced in the first paragraph of this Agreement and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least ninety (90) calendar days written notice of termination, which termination shall be effective at the end of the then-current term. In the event notice is given less than ninety (90) calendar days prior to the end of the current term, this Agreement shall remain in effect for ninety (90) calendar days after such notice is received, provided, that in no case shall the term be extended beyond ninety (90) calendar days after the end of the current term.

6. Pole Attachment Requests (PARs).

- 6.1 Licensee shall submit a written Pole Attachment Request (PAR) as shown in Exhibit 1 to GTE identifying the GTE poles upon which it desires to place Attachments. Each PAR shall be in a form specified by GTE and may be revised from time to time by GTE. All PARs submitted to GTE shall be processed on a first come, first served basis. GTE, in its sole judgment, will determine the availability of space on the GTE pole(s) specified in the PAR and will provide its response to the PAR within thirty (30) Business Days of its submission. Upon approval of the PAR, GTE shall return one copy thereof to Licensee bearing an endorsement acknowledging GTE's authorization. All Attachments placed on GTE's poles pursuant to an approved PAR shall become subject to all of the terms and conditions of this Agreement. Licensee may submit subsequent PARs for approval by GTE as needed. GTE is under no obligation to provide general information respecting the location and availability of GTE poles, except as may be necessary to process a PAR. No Attachment shall be placed on any GTE pole identified in a PAR until that PAR has been approved by GTE.
- 6.2 Licensee shall pay GTE a fee for processing a PAR to compensate GTE for the general administrative costs as well as the actual engineering costs reasonably incurred. The fee for engineering costs shall be computed by multiplying the fully loaded hourly rate for an engineer times the number of hours reasonably required by each engineer to inspect the GTE poles included in the PAR. GTE will charge its then current rates for administrative and engineering costs, as may be changed from time to time by GTE to remain consistent with prevailing costs.

- 6.3 Upon receiving an approved PAR, Licensee shall have the right, subject to the terms of this License, to place and maintain the facilities described in the PAR in the space designated on the GTE poles identified therein.
- 6.4 In the event Make-Ready Work is necessary to accommodate Licensee's Attachments, GTE shall notify Licensee of such fact and provide Licensee with a good faith estimate of the total cost of such Make-Ready Work needed to accommodate Licensee's Attachments. Within fifteen (15) Business Days after receiving such notice from GTE, Licensee shall notify GTE either (1) that Licensee shall pay all of the costs actually incurred to perform the Make-Ready Work and shall pay the total estimated amount to GTE at least ten (10) Business Days prior to the date the Make-Ready Work is to begin or (2) that it desires to cancel its PAR.
- 6.5 GTE shall not be responsible to Licensee for any loss sustained by Licensee by reason of the refusal or failure of any other party with attachments on GTE's poles to rearrange or modify its attachments as may be required to accommodate Licensee's Facilities.
- 6.6 Licensee is not authorized and shall have no right to place facilities on any GTE pole unless that GTE pole is identified in an approved PAR.

7. Availability of Information Regarding Space on Poles.

GTE will provide information regarding the availability of pole space within thirty (30) Business Days of a written request by Licensee. Because GTE will endeavor to determine available space as quickly as possible, a shorter interval may be experienced for requests of a limited scope where physical field verification is not necessary. In the event the thirty (30) Business Day time frame cannot be met, GTE shall so advise Licensee and shall seek a mutually satisfactory alternative response date. No representation regarding the availability of space shall be made in the absence of a physical field verification.

8. Authority to Place Attachments.

- 8.1 Before Licensee places any Attachments on GTE's poles pursuant to an approved PAR, Licensee shall submit evidence satisfactory to GTE including but not limited to an affidavit of its authority to erect and maintain the facilities to be placed on GTE's poles within the public streets, highways and other thoroughfares or on private property. Licensee shall be solely responsible for obtaining all ROWs, easements, licenses, authorizations, permits and consents from federal, state and municipal authorities or private property owners that may be required to place Attachments on GTE's poles. In the event Licensee must obtain any additional easements, permits, approvals, licenses and/or authorizations from any governmental authority or private individual or entity in order to utilize GTE's poles under an approved PAR, GTE shall, upon Licensee's request, provide written confirmation of its consent to Licensee's utilization of poles in a particular location in accordance with this Agreement, if needed by Licensee to obtain such additional approvals or authorizations. GTE shall also provide maps or drawings of its facilities' locations to the extent reasonably required by such governmental authority or private individual or entity for purposes of considering or granting Licensee's request to it for authority or approval.
- 8.2 GTE shall not unreasonably intervene in or attempt to delay the granting of any ROWs, easements, licenses, authorizations, permits and consents from federal, state or municipal authorities or private property owners that may be required for Licensee to place its Attachments on GTE's poles.
- 8.3 If any ROW, easement, license, authorization, permit or consent obtained by Licensee is subsequently revoked or denied for any reason, Licensee's permission to attach to GTE's poles shall terminate immediately and Licensee shall promptly remove its Attachments.

Should Licensee fail to remove its Attachments within sixty (60) calendar days of receiving notice to do so from GTE, GTE shall have the option to remove all such Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by GTE to remove Licensee's Attachments shall be reimbursed to GTE by Licensee upon demand.

- 8.4 Upon notice from GTE to Licensee that the cessation of the use of any one or more of GTE's poles is necessary for reasons of safety or has been directed by any federal, state or municipal authority, or private property owner, permission to attach to such pole or poles shall terminate immediately and Licensee promptly shall remove its Attachments. Should Licensee fail to remove its Attachments within the time frame provided by the requesting or directing party or one hundred twenty (120) days of receiving notice to do so from GTE, whichever is less, GTE shall have the option to remove all such Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby. All costs incurred by GTE to remove Licensee's Attachments shall be reimbursed to GTE by Licensee upon demand by GTE.

9. Placement of Attachments.

- 9.1 Licensee shall, at its own expense, place and maintain its Attachments on GTE's poles in accordance with (i) such requirements and specifications as GTE shall from time to time prescribe in writing, (ii) all rules or orders now in effect or that hereafter may be issued by any regulatory agency or other authority having jurisdiction, and (iii) all currently applicable requirements and specifications of the National Electrical Safety Code, and the applicable rules and regulations of the Occupational Safety and Health Act. Licensee agrees to comply, at its sole risk and expense, with all specifications included hereto, as may be revised from time to time by GTE.
- 9.2 Licensee's Facilities shall be tagged at maximum intervals of 300 feet so as to identify Licensee as the owner of the Facilities. The tags shall be of sufficient size and lettering so as to be easily read from ground level.

10. Failure of Licensee to Place Attachments.

Once Licensee has obtained an approved PAR, Licensee shall have sixty (60) calendar days from the date the PAR is approved to begin the placement of its Attachments on the GTE poles covered by the PAR. If Licensee has not begun placing its Attachments within that sixty (60) calendar day period, Licensee shall so advise GTE with a written explanation for the delay. If Licensee fails to advise GTE of its delay, with a written explanation therefor, or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the sixty (60) calendar days prescribed by this Section, the previously approved PAR shall be deemed rescinded by GTE and Licensee shall have no further right to place Attachments pursuant to that PAR.

11. Attachment Fees.

- 11.1 Licensee shall pay to GTE an annual Attachment Fee, as specified in Exhibit 3 hereto, for each GTE pole upon which Licensee obtains authorization to place an Attachment. The Attachment Fee may be increased by GTE from time to time as permitted by law upon sixty (60) calendar days, or the appropriate number of days as prescribed by federal, state or local government authority, written notice to Licensee.

- 11.2 Attachment fees shall be billed in advance and become due and payable on the date a PAR is approved by GTE for all GTE poles identified in that PAR on a pro rata basis until the end of the calendar year and thereafter on an annual basis within thirty (30) calendar days of the receipt of a statement from GTE specifying the fees to be paid. If any undisputed amount due on the billing statement is not received by GTE on the payment due date, GTE may charge, and Licensee agrees to pay, at GTE's option, interest on the past due balance at a rate equal to the lesser of the interest rates set forth in the applicable GTE/Contel state access tariffs or the GTOC/GSTC FCC No. 1 tariff, one and one-half percent (1½%) per month or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement.
- 11.3 GTE shall maintain an inventory of the total number of GTE poles occupied by Licensee based upon the cumulative number of poles specified in all PARs approved by GTE. GTE may, at its option, conduct a physical inventories of Licensee's Attachments under this Section. At GTE's election, such physical inventories shall be conducted by GTE upon renegotiation of this Agreement or any subpart or appendix thereof, and a maximum of one time per calendar year thereafter. The costs incurred by GTE to conduct the physical inventory shall be reimbursed to GTE by the Licensee upon demand by GTE. It shall be Licensee's sole responsibility to notify GTE of any and all removals of Attachments from GTE's poles. Except as provided in Section 18 of this Agreement in connection with the termination of this Agreement, such notice shall be provided to GTE at least thirty (30) days prior to the removal of the Attachments. Each Notice of Removal shall be in a form specified by GTE and may be revised from time to time at GTE's sole discretion. Licensee shall remain liable for Attachment Fees until Licensee's Attachments have been physically removed from GTE's poles.
12. Modifications, Additions or Replacements to Existing Attachments.
- 12.1 Licensee shall not modify, add to or replace Facilities on any pre-existing Attachment without first notifying GTE in writing of the intended modification, addition or replacement at least thirty (30) calendar days prior to the date the activity is scheduled to begin. The required notification shall include: (1) the date the activity is scheduled to begin, (2) a description of the planned modification, addition or replacement, (3) a representation that the modification, addition or replacement will not require any space other than the space previously designated for Licensee's Attachments, and (4) a representation that the modification, addition or replacement will not impair the structural integrity of the Poles involved and (5) a representation that the modification, addition or replacement will not impact other Licensee's attachments.
- 12.2 Should GTE determine that the modification, addition or replacement specified by Licensee in its notice will require more space than that allocated to Licensee or will require the reinforcement of, replacement of or an addition of support equipment to the poles involved in order to accommodate Licensee's modification, addition or replacement, GTE will so notify Licensee, whereupon Licensee will be required to submit a PAR in compliance with this Agreement in order to obtain authorization for the modification, addition or replacement of its Attachments.
- 12.3 Access to GTE's poles for repairs, modifications, additions, or replacements required in emergency situations shall be governed by Section 22 of this Agreement.
- 12.4 Should Licensee request GTE to expand capacity or purchase additional plant, Licensee agrees to pay all costs.
13. Rearrangements to Accommodate Other Licensees.
- Licensee acknowledges that at some point in the future it may become necessary to rearrange Licensee's Facilities in order to create space to accommodate the facilities of another licensee.

Licensee agrees that in such event Licensee will cooperate in good faith with such other licensee to come to a mutually agreeable understanding regarding the manner in which the rearrangement of Licensee's Facilities will be achieved.

14. Unauthorized Attachments.

14.1 The parties agree that because it would be impracticable and extremely difficult to determine the actual amount of damages resulting from Licensee's unauthorized Attachment(s), a charge equal to five (5) times the amount of the then current Attachment Fee shall be paid by Licensee to GTE for each unauthorized Attachment to a GTE pole. Such payment shall be deemed liquidated damages and not a penalty. Licensee also shall pay GTE an Attachment Fee for each unauthorized Attachment accruing from the date the unauthorized Attachment was first placed on the GTE pole. In the event that the date the unauthorized Attachment was first placed on a GTE pole cannot be determined, such date shall be deemed the date of the last physical inventory made in accordance with this Agreement or, if no physical inventory has been conducted, the date the first PAR from Licensee was approved in accordance with this Agreement. Licensee also shall pay to GTE all costs incurred by GTE to rearrange any unauthorized attachment(s) of Licensee if such rearrangement is required to safeguard GTE's attachment(s) or to accommodate the attachment(s) of another party whose attachment(s) would not have required a rearrangement but for the presence of Licensee's unauthorized attachment(s). Licensee shall also pay to GTE all costs incurred by GTE to reinforce, replace or modify any GTE pole, which reinforcement, replacement or modification was required as a result of the unauthorized Attachment of Licensee. The Attachment Fee referenced in this subsection 14.1 shall be determined in the same manner as such fee would have been determined if the attachment had been authorized by GTE.

14.2 Once GTE has notified Licensee of an unauthorized attachment, the Licensee can submit a PAR to request an authorized attachment. A PAR submitted per this provision will be treated like any other PAR subject to this Agreement. Licensee will be responsible for all fees associated with a PAR (as identified in this agreement). If a PAR is not received by GTE within ten (10) Business Days of Licensee's receipt of an unauthorized Attachment notification, then Licensee has sixty (60) calendar days from the date of its receipt of the initial unauthorized Attachment notification to vacate the unauthorized attachment.

14.3 For purposes of this section, an unauthorized Attachment shall include, but not be limited to:

14.3.1 An Attachment to a GTE pole which pole is not identified in any PAR approved in accordance with this Agreement;

14.3.2 An Attachment that occupies more space than that allocated to Licensee by GTE;

14.3.3 An Attachment that is not placed in accordance with the provisions of this Agreement or the appropriate PAR issued pursuant to this Agreement;

14.3.4 An addition or modification by Licensee to its pre-existing Attachment(s) that impairs the structural integrity of the involved GTE pole(s) or other GTE facilities or those of other licensees.

14.3.5 An Attachment that consists of facilities owned or controlled by, and for the use of a party other than Licensee.

15. Surveys and Inspections of Pole Attachments.

- 15.1 Upon written notice to Licensee, the total number and exact location of Licensee's Attachments on GTE's poles may be determined, at GTE's discretion, through a survey to be made not more than once per calendar year by GTE. If so requested, Licensee and/or any other entity owning or jointly owning the poles with GTE may participate in the survey. The costs incurred by GTE to conduct the survey shall be reimbursed to GTE by Licensee upon demand by GTE. If the Attachments of more than one Licensee are surveyed, each such Licensee shall contribute a proportionate share of the costs reimbursed to GTE.
- 15.2 Apart from surveys conducted in accordance with this section, GTE shall have the right to inspect any Attachment of Licensee on GTE's poles as conditions may warrant upon thirty (30) calendar days written notice to Licensee. Licensee shall, upon demand by GTE, reimburse GTE all costs incurred to conduct its inspection. No joint survey or inspection, or lack thereof, by GTE shall operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

16. Notice of Modification or Alteration of Poles by GTE.

- 16.1 In the event GTE plans to modify or alter any GTE pole(s) upon which Licensee has Attachments, GTE shall provide Licensee notice of the proposed modification or alteration at least thirty (30) calendar days prior to the time the proposed modification or alteration is scheduled to take place. Should Licensee decide to simultaneously modify or alter its Attachments on the GTE poles to be modified or altered by GTE, Licensee shall so notify GTE in writing at least fifteen (15) calendar days prior to when work is to begin. In such event, Licensee shall bear a proportionate share of the total costs incurred by GTE to make such poles accessible to Licensee.
- 16.2 In the event GTE is required by a federal, state, or local authority or for any other reason beyond GTE's control (e.g., normal deterioration to move, replace or change the location of any GTE pole(s), Licensee shall concurrently relocate Licensee's Attachments. GTE and each Licensee required to relocate its Attachments shall bear its own costs for such relocation.

17. Disclaimer of Warranties.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, GTE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR a PARTICULAR PURPOSE.

18. Default and Remedies.

- 18.1 The occurrence of any one of the following shall be deemed a "Material Default" by Licensee under this Agreement:
- 18.1.1 Failure by Licensee to pay any fee or other sum required to be paid under the terms of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof to Licensee;
- 18.1.2 Failure by Licensee to perform or observe any other term, condition, covenant, obligation or provision of this Agreement and such default continues for a period of thirty (30) calendar days after written notice thereof from GTE (provided that if such default is not curable within such thirty (30) calendar day period, the period will be extended if Licensee commences to cure such default within such thirty (30) day period and proceeds diligently thereafter to effect such cure);

- 18.1.3 The filing of any tax or mechanic's lien against GTE's poles which is not bonded or discharged within thirty (30) days of the date Licensee receives notice that such lien has been filed;
 - 18.1.4 Licensee's voluntary or involuntary bankruptcy;
 - 18.1.5 Licensee's knowing use or maintenance of its Attachments in violation of any law or regulation, or in aid of any unlawful act or undertaking;
 - 18.1.6 The denial or revocation of any authorization which may be required of the Licensee by any governmental or private authority for the placement, operation or maintenance of Licensee's Attachments is denied or revoked.
- 18.2 In the event of a Material Default, GTE, without any further notice to the Licensee (except where expressly provided for below or required by applicable law) may do any one or more of the following:
- 18.2.1 Perform, on behalf and at the expense of Licensee, any obligation of Licensee under this Agreement which Licensee has failed to perform and of which GTE shall have given Licensee notice, the cost of which performance shall be paid by Licensee to GTE upon demand;
 - 18.2.2 Terminate this Agreement by giving notice of such termination to Licensee and upon sixty (60) calendar days written notice, remove Licensee's Attachments and store them in a public warehouse or elsewhere at the expense of and for the account of Licensee without GTE being deemed guilty of trespass or conversion, and without GTE becoming liable for any loss or damages to Licensee occasioned thereby; or
 - 18.2.3 Exercise any other legal or equitable right or remedy which GTE may have.
- 18.3 Any costs and expenses incurred by GTE (including, without limitation, reasonable attorneys' fees) in enforcing this Agreement shall be repaid to GTE by Licensee upon demand.
- 18.4 Upon termination of this Agreement by GTE because of a Material Default by Licensee, Licensee shall remain liable to GTE for any and all fees, other payments and damages which may be due or sustained prior to such termination, all reasonable costs, fees and expenses, including, without limitation, reasonable attorneys' fees incurred by GTE in pursuit of its remedies hereunder. In addition to and notwithstanding Section 14, the parties agree that because it would be impracticable and extremely difficult to determine the actual amount of damages, additional liquidated damages for termination because of Material Default shall be an amount equal to one full year of Pole Attachment fees.
- 18.5 All rights and remedies of each party set forth in this Agreement shall be cumulative and none shall exclude any other right or remedy, now or hereafter allowed by or available under any statute, ordinance, rule of court, or the common law, either at law or in equity, or both.
19. Indemnification.
- 19.1 Licensee shall compensate GTE for the full actual loss, damage or destruction of GTE's property that in any way arises from or is related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments).

- 19.2 Licensee will further indemnify, defend and hold harmless GTE and GTE's agents, officers, employees and assigns, from any and all losses, damages, costs, expenses (including, without limitation, reasonable attorneys' fees), statutory fines or penalties, actions or claims for personal injury (including death), damage to property, or other damage or financial loss of whatever nature in any way arising out of or connected with this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments). Licensee will further indemnify GTE from subsequent taxes and fees that may be levied by municipalities or other governmental entities and related to or arising from the presence of Licensee's Attachments on GTE's Poles, including but not limited to taxes or fees related to use of public rights-of-way, in association with this Agreement. Such fees that are levied would be in addition to the Attachment Fees reflected in this Agreement. Licensee expressly assumes all liability for actions brought against GTE and GTE's agents, officers, employees and assigns, by Licensee's agents, officers or employees and Licensee expressly waives any immunity from the enforcement of this indemnification provision that might otherwise be provided by workers' compensation law or by other state or federal laws.
- 19.3 Without limiting any of the foregoing, Licensee assumes all risk of, and agrees to relieve GTE of any and all liability for, loss or damage (and the consequences of loss or damage) to any Attachments placed on GTE's poles and any other financial loss sustained by Licensee, whether caused by fire, extended coverage perils, or other casualty.
- 19.4 Without limiting the foregoing, Licensee expressly agrees to indemnify, defend and hold harmless GTE and GTE's agents, officers, employees and assigns from any and all claims asserted by customers of Licensee in any way arising out of or in connection with this Agreement or Licensee's Attachments.
- 19.5 Notwithstanding anything to the contrary in this Agreement, Licensee further shall indemnify and hold harmless GTE, its agents, officers, employees and assigns from and against any claims, liabilities, losses, damages, fines, penalties and costs (including, without limitation, reasonable attorneys' fees) whether foreseen or unforeseen, which the indemnified parties suffer or incur because of: (i) any discharge of Hazardous Materials resulting from acts or omissions of Licensee or the Licensee's predecessor in interest; (ii) acts or omissions of the Licensee, its agents, employees, contractors, representatives or predecessor in interest in connection with any cleanup required by law, or (iii) failure of Licensee or the Licensee's predecessor in interest to comply with environmental, safety and health laws.
- 19.6 In no event shall either party be liable to the other party for any special, consequential or indirect damages (including, without limitation, lost revenues and lost profits) arising out of this Agreement or any obligation arising hereunder, whether in an action for or arising out of breach of contract, tort or otherwise.
- 19.7 Licensee shall indemnify, protect and hold harmless GTE from and against any and all claims for libel and slander, copyright and/or patent infringement arising directly or indirectly by reason of attachment of Licensee's equipment on GTE's poles pursuant to this Agreement.

20. Insurance.

- 20.1 Licensee shall carry insurance, at its sole cost and expense, sufficient to cover its indemnification obligations as set forth in Section 19 of this Agreement. Such insurance shall include, but not be limited to, coverage against liability due to personal injury or death of persons in the amount of \$500,000 as to any one person and \$1,000,000 as to any one accident; coverage against liability due to property damage in the amount of

\$500,000 as to each accident and \$500,000 aggregate; and coverage necessary to fully protect both it and GTE from all claims under any worker's compensation laws that may be applicable.

- 20.2 All insurance required of Licensee under this Agreement shall remain in force for the entire life of this Agreement. The company or companies issuing such insurance shall be approved by GTE and GTE shall be named as an additional insured in each such policy. Licensee shall submit to GTE certificates by each insurer to the effect that the insurer has insured Licensee for all potential liabilities of Licensee under this Agreement, and that it will not cancel or change any policy of insurance issued to Licensee except upon thirty (30) calendar days notice to GTE. In the event Licensee's insurance coverage is to be canceled by reason of non-payment of premiums due, GTE shall have the option of paying any amount due and Licensee shall forthwith reimburse GTE the full amount paid by GTE.
- 20.3 Licensee shall promptly advise GTE in writing of any and all claims for damages, including, but not limited to, damage to property or injury to or death of persons, allegedly arising out of or in any manner related, directly or indirectly, to the presence or use of Licensee's Attachments.
- 20.4 Licensee shall furnish bond or satisfactory evidence of contractual insurance coverage, the terms of which shall be subject to GTE's approval, in the amount of ten thousand dollars (\$10,000) to guarantee the payment of any sums which may become due to GTE for rentals, inspections or for work performed by GTE for the benefit of Licensee under this Agreement, including the removal of Licensee's equipment pursuant to any of the provisions hereof. All bonds must specify that GTE be notified thirty (30) calendar days prior to the expiration or cancellation of the policy.

21. Taxes.

Any state or local excise, sales, or use taxes or other surcharges or fees (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes, surcharges or fees is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, surcharges or fees, except to the extent that the obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as GTE requires that qualifies the obligated Party for a full or partial exemption. Any such taxes, surcharges or fees shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any such taxes, surcharges or fees that may be subsequently levied on payments by the other Party by the collecting Party.

22. Emergency Restoration Procedures.

In the event of an emergency, restoration procedures may be affected by the presence of Licensee's Attachments. While GTE shall not be responsible for the repair of Licensee's Attachments that are damaged (except by mutual written agreement), GTE shall nonetheless control access to its poles if the restoration is to be achieved in an orderly fashion. Licensee agrees to reimburse GTE for the cost of all labor, equipment, and/or materials furnished by GTE in support of any restoration operations from which Licensee is a beneficiary.

- 22.1 Where multiple parties are involved in emergency restorations, access to GTE's poles will be controlled by GTE's Maintenance District Manager or his/her on-site representative according to the following guidelines:

22.1.1 Service Disruptions/Outages

- a. In the event of service disruptions and/or outages, GTE shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- b. Where simultaneous access is not possible, access will be granted by GTE on a first come, first served basis.

22.1.2 Service Affecting Emergencies

- a. In the event of service affecting emergencies not resulting in service disruptions or outages, GTE shall make all reasonable efforts to grant access to as many other entities with Attachments as is reasonably safe.
- b. Where GTE is unable to grant simultaneous access to all other entities with Attachments, access will be granted according to the level of damage to the Attachments of each entity and the likelihood that a given level of damage will result in service disruption. Where the likelihood that a service disruption will result is not clearly discernible, access will be on a first come, first served basis.

- 22.2 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by GTE regarding access to Attachments, or any action or failure to act by GTE, under this Section 22 shall not constitute a basis for any claim by Licensee against GTE for any damage to Licensee's Attachments or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee.

23. Damage Suspected to Licensee's Facilities Only.

- 23.1 In the event Licensee receives information that Licensee's Attachments are damaged, Licensee shall notify GTE of said damage at a number to be provided later by GTE. This is a 24-hour, 7 days per week notification number. Licensee shall provide GTE all information known to it regarding the damage to Licensee's Attachments.
- 23.2 In the event GTE receives notice that Licensee's Attachments are damaged, GTE will notify Licensee of said damage by telephone at the Licensee's emergency telephone number. GTE shall provide Licensee all information known to it regarding the damage to Licensee's Attachments.
- 23.3 After the giving of such notice by either Licensee or GTE, Licensee shall be authorized to perform emergency restoration maintenance activities in connection with Licensee's Attachments, subject to the provisions of this Agreement.
- 23.4 Without limiting any other indemnification or hold harmless provisions of this Agreement, Licensee agrees that any decision by GTE regarding access to Licensee's Attachments, or any action or failure to act by GTE, appropriately or inappropriately, under this Section shall not be the basis for any claim by Licensee against GTE for any damage to Licensee's Attachments or disruption of Licensee's services, or any other direct or indirect damages of any kind whatsoever incurred by Licensee and Licensee shall indemnify and hold GTE harmless from any such claim.

24. Abandonment.

Nothing in this Agreement shall prevent or be construed to prevent GTE from abandoning, selling, assigning or otherwise disposing of any poles or other GTE property used for Licensee's Attachments; provided, however, that GTE shall condition any such sale, assignment or other disposition subject to the rights granted to Licensee pursuant to this Agreement. GTE shall promptly notify Licensee of any proposed sale, assignment or other disposition of any poles or other GTE property used for Licensee's Attachments.

25. Notices.

Any written notice to be given to a party to this Agreement shall be in writing and given or made by means of telegram, facsimile transmission, certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges prepaid, and addressed or directed to the respective parties as follows:

If to GTE:

GTE North Incorporated
GTE South Incorporated
Attention: Assistant Vice President/Associate
General Counsel
Business Development & Integration
600 Hidden Ridge - HQE03J43
Irving, TX 75038
Telephone number: 972/718-6361
Facsimile number: 972/718-3403

and

GTE North Incorporated
GTE South Incorporated
Attn: Director-Wholesale Contract Compliance
Network Services
600 Hidden Ridge - HQE03D52
Irving, TX 75038
Telephone Number: 972/718-5988
Facsimile Number: 972/719-1519

If to Licensee:

US Xchange of Illinois, L.L.C.
Attention: David J. Easter, V.P., Development
20 Monroe N.W.
Suite 450
Grand Rapids, Michigan 49503
Facsimile number: (616) 493-7007

Any notice given by personal delivery shall be deemed to have been given on the day of actual delivery and, if given by registered or certified mail, return receipt requested, on the date of receipt thereof and, if given by facsimile transmission, on the day of transmittal thereof if given during the normal business hours of the recipient and on the next Business Day if not given during normal business hours.

26. Non-Waiver of Terms and Conditions.

No course of dealing, course of performance or failure to enforce any of term, right, condition or other provision of this Agreement shall constitute or be construed as a waiver of any term, right or condition or other provision of this Agreement.

27. Confidential Information.

- 27.1 Identification. Either party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure.
- 27.2 Handling. In order to protect such Confidential Information from improper disclosure, each Party agrees:
- 27.2.1 That all Confidential Information shall be and shall remain the exclusive property of the source;
 - 27.2.2 To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;
 - 27.2.3 To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
 - 27.2.4 Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;
 - 27.2.5 To return promptly any copies of such Confidential Information to the source at its request; and
 - 27.2.6 To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.
- 27.3 Exceptions. These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was received in good faith from a third party not subject to a confidential obligation to the source, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.
- 27.4 Survival. The obligation of confidentiality and use with respect to Confidential Information disclosed by one party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.
28. Dispute Resolution.
- 28.1 Alternative to Litigation. Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the

purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

- 28.2 Negotiations. At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.
- 28.3 Arbitration. If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
- 28.4 Expedited Arbitration Procedures. If the issue to be resolved through the negotiations referenced in Section 28.2 directly and materially affects service to either Party's end user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).
- 28.5 Costs. Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.
- 28.6 Continuous Service. The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations in accordance with this Agreement.

29. Compliance With Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

30. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

31. Assignment.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party.

32. Applicable Law.

This Agreement shall be governed by and construed in accordance with the domestic laws of the state where the Services are provided or the facilities reside and shall be subject to the exclusive jurisdiction of the courts therein.

33. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation.

34. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

35. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their authorized representatives.

For GTE SOUTH INCORPORATED
GTE NORTH INCORPORATED

Connie Nicholas
(Signature of Authorized Agent)

Connie Nicholas
(Printed Name of Authorized Agent)

Assistant Vice President
(Title)

Wholesale Markets-Interconnection
November 23, 1998
(Date)

For LICENSEE:

David J. Easter
(Signature of Officer)

DAVID J. EASTER
(Printed Name of Officer)

EXEC V.P.
(Title)

11-19-98
(Date)

ATTEST:

Corporate Seal (If Applicable)

David J. Easter
11/11/98

EXHIBIT 1
POLE ATTACHMENT REQUEST
(FOR FUTURE USE)

EXHIBIT 2
SPECIFICATION DOCUMENTS
(FOR FUTURE USE)

EXHIBIT 3

ATTACHMENT FEES

For USX: \$2.49 per attachment per year